

In *Berryhill v. Poppell*, No. CIV-99-407-D (W.D. Okla. May 25, 1999), the United

States District Court for the Western District of Oklahoma found that plaintiff had filed 11 previous lawsuits pursuant to 42 U.S.C. § 1983. *Id.*, slip op. at 1. Three of the 11 cases were dismissed for failure to state a claim or as frivolous, and one of the dismissals was affirmed on appeal:

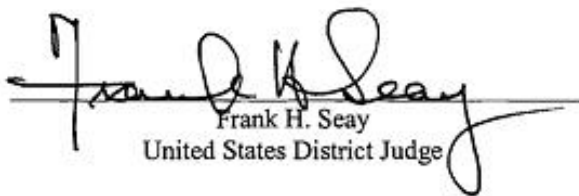
Berryhill v. Beckman, No. CIV-85-1364-E, *aff'd*, No. 86-1533 (10th Cir. Oct. 22, 1986) (motion to dismiss under Rule 12(b)(6) and 28 U.S.C. § 1915(d) granted); *Berryhill v. Maynard*, No. CIV 88-1034-T (motion to dismiss under Rule 12(b)(6) and 28 U.S.C. § 1915(d) granted); and *Berryhill v. Faulk*, No. CIV-92-1705-T (dismissed upon filing for failure to state a claim).

Berryhill v. Poppell, No. CIV-99-407-D, slip op. at 2 n.1.

This lawsuit is premised on plaintiff's allegations that the numerous state and federal defendants, including state and federal judges, have conspired to obstruct justice and to kidnap him because of their racial hatred. After careful review, however, the court finds plaintiff's conclusory allegations fail to set forth a credible claim that he is in imminent danger of serious physical harm and that he qualifies for the exception in 28 U.S.C. § 1915(g).

ACCORDINGLY, plaintiff's motion for leave to proceed *in forma pauperis* [Docket #2] is DENIED. Plaintiff is directed to forward the \$350.00 filing fee to the Court Clerk within twenty (20) days. The agency having custody of plaintiff is ordered to release funds from plaintiff's accounts, including plaintiff's trust account, for payment of the filing fee. Failure to comply with this order will result in dismissal of this action.

DATED this 12th day of April, 2010.


Frank H. Seay
United States District Judge